

1 Now, looking at EB Exhibit 21, your
2 March 8, 2001, memo, and your response to the letter
3 from the FCC, item number 1, the response is no. So
4 even with a cursory glance, did it jump out at you
5 that they had completely characterized your response
6 in the opposite direction?

7 A No, it didn't. And if it would have, I
8 would have relied on the expertise of legal counsel.

9 Q Well, if you had noticed that, would you
10 have mentioned it to anybody?

11 A Frankly, by the time I got through some of
12 the initial paragraphs, it -- I cannot testify that I
13 actually -- once I started to get through the initial
14 paragraphs, which were rather dense, then I was able
15 to hook up clearly -- again, with the amount of trust
16 I was placing in people that had been there at the
17 time, people that were engaged in the process, and the
18 expertise of FCC legal counsel.

19 Q Well, I can understand that the preceding
20 paragraphs might not have been totally interesting to
21 you, although -- well, never mind. Strike that.

22 JUDGE SIPPEL: You know, you've asked the

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1 question --

2 MS. LEAVITT: Okay.

3 JUDGE SIPPEL: -- and she has answered it
4 at least two or three times.

5 MS. LEAVITT: Okay, Your Honor.

6 JUDGE SIPPEL: And that's only today.

7 Let's --

8 MS. LEAVITT: Okay.

9 JUDGE SIPPEL: -- move on, please.

10 BY MS. LEAVITT:

11 Q Moving along to page 3 of SFUSD
12 Exhibit 21, the second paragraph, please read that to
13 yourself.

14 MR. PRICE: Are you talking about the
15 second full paragraph?

16 MS. LEAVITT: Yes.

17 MR. PRICE: The one that begins,
18 "Additionally"?

19 MS. LEAVITT: At the time -- I'm sorry.
20 Page 3, "At the time of KALW's 1997 renewal."

21 MR. PRICE: That's the first full
22 paragraph, correct?

1 MS. LEAVITT: Yes.

2 JUDGE SIPPEL: That's the first full
3 paragraph --

4 MS. LEAVITT: Yes.

5 JUDGE SIPPEL: -- on that page.

6 MR. PRICE: Right. Do you understand what
7 you're supposed to read?

8 THE WITNESS: It begins with, "At the time
9 of KALW's"?

10 MR. PRICE: That's right.

11 THE WITNESS: Yes, I understand.

12 BY MS. LEAVITT:

13 Q Referring to the first full paragraph,
14 line -- the first sentence, "At the time of KALW's
15 renewal" -- and I'm just skipping ahead, actually it's
16 the second sentence -- I'm sorry, Your Honor, "SFUSD"
17 -- the second sentence starts, "SFUSD and KALW's
18 present management have no reason to disbelieve Ms.
19 Ramirez's certification." Do you recall seeing that
20 sentence?

21 A At that time, I don't recall even drilling
22 down on this. But if I did read it, of course, I saw

1 that sentence.

2 Q Would "present management" have referred
3 to you?

4 A I was part of management.

5 Q So is that a yes?

6 A I was part of management, yes.

7 Q Going on to page 4 of this exhibit, the
8 next page, going down to about a third -- two-thirds
9 down on the page --

10 JUDGE SIPPEL: Well, now wait just a
11 second. Before you -- you now have her conceding that
12 she is part of the present management. Back on
13 page 3, I'm looking at this Exhibit Number 21,
14 SFUSD 21.

15 Okay. You've got her admitting that SFUSD
16 -- that she was part of the present management, and
17 this sentence reads, "SFUSD and KALW's present
18 management have no reason to disbelieve Mr. Ramirez's
19 certification." Is that sentence accurate?

20 THE WITNESS: Your Honor, I do not --

21 JUDGE SIPPEL: As of the time that -- I'm
22 sorry. Let me -- I'm terribly sorry. I mean, as of

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1 the date of this dialogue back on April 3rd, did you
2 believe that statement to be accurate?

3 THE WITNESS: It's a hard call for me. I
4 don't know whether he meant me as the one single
5 present management person. I had a lot of trust at
6 the time.

7 JUDGE SIPPEL: No. You've already
8 admitted that you're part of the present management.

9 THE WITNESS: Right.

10 JUDGE SIPPEL: That's not an issue that's
11 in contention. What is -- I'm asking you is that the
12 bottom line of that sentence is is that present
13 management -- yourself, Mr. -- whoever else that might
14 have involved, but it says SFUSD and KALW, all right?
15 Which means the people at headquarters and the
16 management people at KALW have no reason to disbelieve
17 Mr. Ramirez's certification. All right? That's what
18 it says.

19 THE WITNESS: Right.

20 JUDGE SIPPEL: Did you have any -- did you
21 agree with that statement as of April 8th, or did you
22 have any question to -- reason to question that

1 statement?

2 MR. SHOOK: Your Honor, just to clarify,
3 April 3.

4 JUDGE SIPPEL: April 3, 2001.

5 THE WITNESS: I can't recall having any
6 reason to question that.

7 JUDGE SIPPEL: All right. Well, what
8 about today, sitting here today?

9 THE WITNESS: Quite frankly, Your Honor,
10 it has gotten so murky --

11 JUDGE SIPPEL: Yes.

12 THE WITNESS: -- I don't know about Jeff
13 Ramirez's certification.

14 JUDGE SIPPEL: Meaning what, that you
15 question its validity or its believability?

16 THE WITNESS: I don't -- no, I would not
17 question Jeff's believability. I've known him to be
18 pretty forthright.

19 JUDGE SIPPEL: No, no, no. I'm talking
20 about the certification. I'm talking about the
21 certification. I'm not trying to characterize him
22 personally, but his certification. You said that --

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1 THE WITNESS: I'm not sure that I've seen
2 his certification exactly, or is -- there's so many
3 documents. That one doesn't pop out at me exactly.

4 JUDGE SIPPEL: Well, you did testify that
5 you -- you used the term "murky" with respect to my
6 question about his certification. And, you know,
7 maybe that's the way you'd like to leave the record.
8 All right. You may continue.

9 MS. LEAVITT: Thank you, Your Honor.

10 BY MS. LEAVITT:

11 Q Turning to page 4 of SFUSD Exhibit 21,
12 two-thirds of the way down there is the number 2 and
13 it's enumerating issues/programs lists, first inquiry.
14 On August 1, 1997, did the KALW(FM) public inspection
15 file contain all of the issues/programs lists required
16 by then Section 73.3527? And the response was, "Yes.
17 SFUSD and the present management of KALW believe that
18 its public inspection files, as of August 1, 1997,
19 contained all of the programs/issues lists for the
20 entire period in question."

21 Now, my first question to you is: did
22 that yes respond agree with your March 8, 2001,

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1 communication to Mr. Sanchez regarding response to --
2 your March 8th response to him?

3 A That he says yes; I said no.

4 Q Were you part of -- did you understand
5 that you -- had you read this sentence or this
6 section?

7 A I might not have even gotten this far,
8 given what was coming before it, and given the other
9 sets of eyes that were then on it.

10 Q Did you understand that you were present
11 management of KALW? Do you disagree with that
12 sentence?

13 A I am always present management of KALW.

14 MR. PRICE: I don't think that's a
15 straightforward -- I don't think that's a fair
16 question to the witness.

17 JUDGE SIPPEL: Well, the witness has
18 already testified to that phrase "present management"
19 at length.

20 MR. PRICE: But she was asked if she
21 agrees with that sentence. I think she meant, do you
22 agree with -- that you were present management? And

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1 that carries different weight.

2 THE WITNESS: That's --

3 MR. PRICE: If you're asking her if she
4 agrees with what the sentence says, that's one thing.
5 It's a different question to ask her if she's part of
6 the present management referenced in that section.

7 MR. SHOOK: Your Honor, I thought we had
8 already established that --

9 JUDGE SIPPEL: I'm going to leave the
10 record the way it is. You can ask him the question
11 straight up.

12 BY MS. LEAVITT:

13 Q Were you part of present management? Did
14 you understand that you were part of present
15 management of KALW?

16 JUDGE SIPPEL: Maybe I'm not making myself
17 clear. We've already established that.

18 MS. LEAVITT: Okay.

19 JUDGE SIPPEL: So for purposes of your
20 question, we can assume that she's part of the present
21 management for purposes of this document.

22 BY MS. LEAVITT:

1 Q Is the sentence accurate?

2 JUDGE SIPPEL: There you go. Bingo.

3 THE WITNESS: It's what Mr. Sanchez
4 believed. Perhaps other members of present management
5 believed that. However, per my March 8th, that's not
6 what I wrote.

7 BY MS. LEAVITT:

8 Q Okay. Well, looking at the next sentence,
9 "Mr. Ramirez, who reviewed the contents of the file in
10 July and August 1997 in connection with preparation of
11 KALW's license renewal form, so certified at the time.
12 Neither KALW's present management nor SFUSD has any
13 reason to disbelieve that certification." Is that
14 statement accurate?

15 A Do you mean is that what's written?

16 Q Yes.

17 JUDGE SIPPEL: Now, wait. You've got to
18 be fair to the witness. There's two times at which it
19 might be accurate. Why don't you start with -- what
20 were the dates again? April 3, 2001.

21 BY MS. LEAVITT:

22 Q Okay. As of April 3, 2001, was this

1 following sentence accurate, "Neither KALW's present
2 management nor SFUSD has any reason to disbelieve Mr.
3 Ramirez's certification"?

4 A It must have been accurate to Mr. Sanchez
5 and to the person that he was doing the legwork with.
6 If Mr. Sanchez decided that my answers were not
7 accurate, that was up to him. He was general counsel
8 taking a leadership role on this.

9 Q Okay. Thank you.

10 JUDGE SIPPEL: Wait. Your testimony --
11 can I just -- I'm sorry.

12 MS. LEAVITT: Yes, that's okay.

13 JUDGE SIPPEL: I apologize to you. But
14 so, again, you're -- all right. If you had written on
15 March 8th, you had in effect responded no to that --
16 that set of information that we're talking about here,
17 and if Mr. Sanchez has said to you, "You're wrong
18 about that; that answer should be yes," would you have
19 gone beyond that? I mean, you'd just take him because
20 he's the counsel on the case that he's the one that's
21 going to have the final word on that? Is that -- I
22 mean, that's the sense that I'm getting from what

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1 you're testifying.

2 THE WITNESS: Your Honor, maybe I can
3 be --

4 JUDGE SIPPEL: Whether you were right or
5 wrong is irrelevant to you. It's the fact that he was
6 the -- he was the attorney on this case, on this
7 matter, and that he had decided that yes was the right
8 answer.

9 THE WITNESS: I had just arrived.

10 JUDGE SIPPEL: I know that.

11 THE WITNESS: This is a huge issue.

12 JUDGE SIPPEL: I know that, but that's not
13 what I'm asking you, about when you arrived.

14 THE WITNESS: I wasn't going to arm
15 wrestle him about it. That's correct.

16 JUDGE SIPPEL: That would be the end of --

17 THE WITNESS: And probably perhaps I
18 should have. Had I noted it and it jumped out -- but
19 I was in the minority with regard to even knowledge
20 base. For all I knew, perhaps other members of
21 present management believed that Mr. Ramirez's
22 certification was correct at the time, along with Mr.

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1 Sanchez and Ms. Susan Jenkins.

2 JUDGE SIPPEL: All right. I'm sorry, Ms.
3 Leavitt.

4 MS. LEAVITT: That's all right.

5 JUDGE SIPPEL: Go ahead.

6 BY MS. LEAVITT:

7 Q Did you know -- did you understand on
8 April 3, 2001, that present management also would have
9 included Mr. Helgeson?

10 A Yes, I did understand that.

11 Q Okay. Thank you. What understanding did
12 you have as to who was working with Mr. Sanchez on
13 this draft?

14 A My understanding was William Helgeson,
15 Susan Jenkins. That was pretty much it. Perhaps
16 their administrative help. I don't know.

17 Q And yourself.

18 A Working on the draft?

19 Q On providing information that he used in
20 drafting this.

21 A I -- really, my role and what I asked Mr.
22 Sanchez, what should my role be, was really to keep

1 things moving, to get everybody briefed in a much
2 bigger detail about what had been going on for the
3 past many years. I was taking my directives from Mr.
4 Sanchez, in that he would say, you know, "What kind of
5 brief do you want? Let me work with Bill." Whatever
6 it was.

7 He, again, was in a leadership role here,
8 truly, with Ms. Jenkins. I was there to facilitate,
9 to get something that had dawdled for a while, move
10 it. I felt that was my ultimate goal and
11 responsibility as a newcomer.

12 Thank you.

13 JUDGE SIPPEL: Do you know the nature of
14 the relationship between attorney and client is that
15 he -- he is the agent and you're the principal? Did
16 you know that? That makes you the boss, and he's
17 working for you.

18 THE WITNESS: I'm beginning to learn a lot
19 about the legal system, Your Honor. I'm a
20 broadcaster, and I have never gone to legal school.

21 JUDGE SIPPEL: Well, you know, when you're
22 paying -- when you're paying somebody to provide a

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1 service for you, you generally don't have to go to law
2 school to figure that one out.

3 THE WITNESS: Your Honor, with all --

4 JUDGE SIPPEL: Certainly, you have to
5 respond judgment. You have to respect advice. I'm
6 not suggesting anything to the contrary to that. But
7 the relationship between the client and the attorney
8 is -- you seem to be -- you seem to have things
9 reversed the way I'm hearing you.

10 THE WITNESS: Actually, Your Honor, with
11 all due respect, if you look at my later e-mails to
12 Mr. Sanchez, I do get much more brash and much more
13 demanding. I think that finally dawned on me, that I
14 was in the driver's seat, not me, but SFUSD, the
15 listeners of the city and county of San Francisco who
16 give us our budget, and KALW was actually in the
17 driver's seat here.

18 JUDGE SIPPEL: The dynamics started to
19 shift a little bit.

20 THE WITNESS: Exactly. Yes.

21 JUDGE SIPPEL: Go ahead.

22 MS. LEAVITT: Thank you, Your Honor.

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1 BY MS. LEAVITT:

2 Q Let's turn to EB Exhibit 34, which is the
3 -- on Sanchez law firm letterhead dated April 5, 2001.
4 It's a letter to Linda Blair, Chief, Audio Services
5 Division, Mass Media Bureau, FCC. And it's regarding
6 the KALW renewal, and what we are -- have termed
7 throughout the hearing as SFUSD's LOI response, the
8 response to the Commission's February 5, 2001, LOI.

9 JUDGE SIPPEL: You're going to be on this
10 for a while?

11 MS. LEAVITT: Yes, Your Honor.

12 JUDGE SIPPEL: You've been on the stand
13 since -- almost two hours now. Are you okay to keep
14 going, or do you want to take a recess, or what? How
15 are you feeling?

16 THE WITNESS: Do we break for lunch?

17 JUDGE SIPPEL: We do break for lunch, yes.

18 THE WITNESS: At noon?

19 JUDGE SIPPEL: About noon.

20 THE WITNESS: Well, why don't we go 'til
21 noon. I think we all want to proceed. I --

22 JUDGE SIPPEL: That's fine.

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1 THE WITNESS: I do have a flight to catch
2 at 9:00 p.m.

3 (Laughter)

4 JUDGE SIPPEL: Well, I got a lot out of
5 that question.

6 (Laughter)

7 Thank you. Let's go forward.

8 BY MS. LEAVITT:

9 Q Have you seen EB Exhibit -- this letter,
10 the April 5, 2001, response that SF -- that Ernest
11 Sanchez filed with the FCC?

12 A I have seen this letter.

13 Q And when did you see that letter?

14 A My memory has certainly been refreshed
15 with this letter in preparation for this hearing.

16 Q When was the first time you saw it?

17 A I might have read it over before I placed
18 it in a file when it came into my possession at KALW.

19 Q And had you read it?

20 A I am embarrassed to admit I probably
21 didn't read the final letter.

22 Q When would you have read it? Even

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1 reviewed it?

2 A I believe I just stated that I'm
3 embarrassed to admit that I might not have read the
4 final letter to the FCC from Mr. Sanchez.

5 Q Okay. Approximately when did you receive
6 this letter?

7 A It must have been sometime after -- it
8 must have been around the time that he sent it to the
9 Audio Services Division of the Mass Media Bureau of
10 the FCC.

11 Q And what did you do with it when you
12 received it?

13 A I put it in a file.

14 Q Without looking at it?

15 A Again, as I stated, I'm quite embarrassed.
16 I have really plumbed my memory banks. I might not
17 have read it.

18 Q Turning to EB --

19 JUDGE SIPPEL: I'm sorry. You got an
20 answer. Let's move on.

21 BY MS. LEAVITT:

22 Q Turning to EB Exhibit 35, page 2, there's

1 an entry April 5, 2001, and it says, "ETS," if you
2 read the third one down, third entry on that date,
3 "work on summary legal report from Mr. Campos,
4 conference with Ms. Sawaya, work on response to
5 FCC" --

6 A I'm sorry, ma'am. Could you tell me where
7 that is again?

8 Q Yes, under April 5, 2001. It's on page 2.

9 A Yes.

10 Q Okay. And then, there are three initials
11 there. The third initial is ETS, Ernie Sanchez, and
12 it indicates he worked on legal summary report for Mr.
13 Campos, conference with Ms. Sawaya, work on response
14 to FCC, numerous conferences with Mr. Helgeson, and he
15 billed about five and a half hours. Do you recall
16 what you were discussing with him during your
17 conference?

18 A I believe at that time it was getting that
19 report done for senior management at SFUSD about the
20 history of the license challenge.

21 Q Did you discuss the FCC response during
22 that conversation?

1 A I don't recall doing that, and I don't
2 think I did. As I just said, I don't recall, so --

3 Q Okay. Looking at the next entry on that
4 invoice, April 6, 2001 -- again, the third initials
5 down, ETS, "Call to Mr. Campos, conference with Ms.
6 Sawaya, final edit work on FCC letter," and it was
7 about a half hour. Do you recall what you discussed
8 with Mr. Sanchez on that date?

9 A We might have been looking at a time when
10 he would come out to San Francisco to present the
11 briefing.

12 MS. LEAVITT: One moment, Your Honor.

13 JUDGE SIPPEL: Off the record.

14 (Whereupon, the proceedings in the
15 foregoing matter went off the record at
16 11:09 a.m. and went back on the record at
17 11:14 a.m.)

18 JUDGE SIPPEL: Back on the record.

19 BY MS. LEAVITT:

20 Q One final question regarding EB
21 Exhibit 35, Ms. Sawaya, which is the Sanchez invoice.

22 A Yes.

1 Q On page 2, April 5, 2001, entry under Mr.
2 Sanchez, in which he mentions that he had conferences
3 with you, worked on response to FCC, and numerous
4 conferences with Mr. Helgeson, and he billed five and
5 a half hours. Do you know what he was discussing with
6 Mr. Helgeson?

7 A I can only assume -- no, I do not know
8 exactly what he was discussing with Mr. Helgeson.

9 Q Okay. Thank you. Okay. Ms. Sawaya, I'd
10 ask that you look at SFUSD Exhibit 22, which is the
11 KALW(FM) report on license renewal to Dr. Arlene
12 Ackerman, Superintendent of Schools, from Ernest
13 Sanchez and Susan Jenkins of the Sanchez law firm,
14 dated May 24, 2001.

15 A I'm looking at the --

16 Q Have you seen this document before?

17 A I have.

18 Q And what is this document?

19 A This document was a brief that was
20 requested of Mr. Sanchez and Ms. Jenkins to provide to
21 Dr. Ackerman with regard to the license challenge.

22 Q And did you -- when did you see this

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1 document for the first time?

2 A When Mr. Sanchez finished it and presented
3 it to us.

4 Q Did you have any input or involvement in
5 his drafting of this response? Did you provide any
6 information to help him draft this report?

7 A Oh, no.

8 Q Okay. Did you have a chance to read this
9 report?

10 A When?

11 Q When you received it.

12 A Yes, I did read it.

13 Q You did read it. Okay. I would direct
14 you to page 3 of 10.

15 MS. REPP: Excuse me. There are two
16 different page references on the bottom.

17 MS. LEAVITT: I'm sorry.

18 MS. REPP: Are you referring to page --

19 MS. LEAVITT: Yes, I'm sorry, the exhibit
20 -- the report page, which would be page 4 in the
21 exhibit.

22 MS. REPP: Thank you.

1 BY MS. LEAVITT:

2 Q Ms. Sawaya, can you read the last
3 paragraph on page 4 of the exhibit under the heading,
4 "Where do things stand at present?"

5 A Out loud?

6 Q To yourself. To yourself.

7 JUDGE SIPPEL: Which paragraph was that
8 again?

9 MS. LEAVITT: The last one, Your Honor, on
10 that page.

11 JUDGE SIPPEL: On page 4.

12 MS. LEAVITT: Yes. It's under the
13 heading --

14 JUDGE SIPPEL: I see it. I have it.
15 Thank you.

16 THE WITNESS: I have read it.

17 BY MS. LEAVITT:

18 Q Thank you. About halfway down in that
19 paragraph it says, "On behalf of SFUSD, and in
20 cooperation with the new GM, and loyal staff members,
21 we responded fully and frankly to these questions,"
22 and that refers to the February 2001 FCC letter of

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1 inquiry. What is your understanding of the words "we
2 responded fully and frankly to these questions"?

3 A The Sanchez law firm did.

4 Q How do you read in "with cooperation with
5 the new general manager and loyal staff members"?

6 A I read that I was cooperative in helping
7 to facilitate and make sure that things were getting
8 done in a timely way.

9 Q Did you understand at the time that he was
10 indicating that he relied on your cooperation in
11 responding fully and frankly to those questions?

12 A I can't say that's the way I would have
13 interpreted it. I think I interpret it as he was --
14 that I was cooperating as the new general manager, to
15 make sure that this was done.

16 MS. LEAVITT: Okay. Your Honor, I have no
17 further questions for this witness.

18 JUDGE SIPPEL: I've got -- on the
19 conclusion of this report, on page 11 --

20 THE WITNESS: Yes. Page 8 of 11? Or, I
21 mean, page 11 of --

22 JUDGE SIPPEL: Well, it's --

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1 THE WITNESS: Page 10 of 10.

2 JUDGE SIPPEL: There you go. You got it.

3 THE WITNESS: Yes.

4 JUDGE SIPPEL: And this is from --

5 THE WITNESS: It says the conclusion at
6 the top?

7 JUDGE SIPPEL: Yes, I'm just referring
8 back to the first page. This is from Mr. Sanchez, Ms.
9 Jenkins, and Sanchez law firm, "they" being that. The
10 conclusion is that Jackie Wright and Nicole Sawaya and
11 Mr. Campos of the legal office have requested that we
12 prepare this report. This is, again, directed to the
13 -- to Dr. Ackerman.

14 Is this the first time that there was a
15 report going up to Dr. Ackerman about the status of
16 this case?

17 THE WITNESS: To the best of my knowledge,
18 yes, Your Honor.

19 JUDGE SIPPEL: Then, how come you got in
20 the act of being one of the trio here that requested
21 that's -- in the context of this, when you request
22 that from your attorney, you're really instructing